

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:18-cv-02031-JEB**

RENEWABLE FUELS ASSOCIATION et al v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY et al
Assigned to: Judge James E. Boasberg
Cause: 05:552 Freedom of Information Act

Date Filed: 08/30/2018
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

**RENEWABLE FUELS
ASSOCIATION**

represented by **Matthew W. Morrison**
PILLSBURY WINTHROP SHAW
PITTMAN, LLP
1200 17th Street, NW
Washington, DC 20036
(202) 663-8036
Email: matthew.morrison@pillsburylaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Bryan Matthew Stockton
PILLSBURY WINTHROP SHAW
PITTMAN, LLP
1200 17th Street, NW
Washington, DC 20036
(202) 663-8407
Email: bryan.stockton@pillsburylaw.com
ATTORNEY TO BE NOTICED

Plaintiff

GROWTH ENERGY

represented by **Claire H. Chung**
WILMER CUTLER PICKERING HALE & DORR LLP
1875 Pennsylvania Ave., NW
Suite 400E
Washington, DC 20006
(202) 663-6000
Email: Claire.Chung@wilmerhale.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

David Mark Lehn
WILMER CUTLER HALE AND DORR LLP
1875 Pennsylvania Avenue NW
Washington, DC 20006
(202) 663-6910
Email: david.lehn@wilmerhale.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Matthew W. Morrison
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Seth Paul Waxman
WILMER CUTLER PICKERING HALE & DORR LLP

1875 Pennsylvania Avenue NW
Washington, DC 20006
(202) 663-6000
Fax: (202) 663-6363
Email: seth.waxman@wilmerhale.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Bryan Matthew Stockton
(See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

**UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY**

represented by **Matthew Evan Kahn**
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-6718
Email: matthew.kahn@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

**UNITED STATES DEPARTMENT
OF ENERGY**

represented by **Matthew Evan Kahn**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
08/30/2018	<u>1</u>	COMPLAINT against UNITED STATES DEPARTMENT OF ENERGY, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Filing fee \$ 400 receipt number 0090-5664971) filed by Renewable Fuels Association, Growth Energy. (Attachments: # <u>1</u> Exhibit A-V, # <u>2</u> Civil Cover Sheet, # <u>3</u> Summons USEPA, # <u>4</u> Summons UDOE, # <u>5</u> Summons USADC, # <u>6</u> Summons DOJ)(Morrison, Matthew) (Attachment 2 replaced on 8/30/2018) (zsth). (Entered: 08/30/2018)
08/30/2018	<u>2</u>	Corporate Disclosure Statement by Growth Energy, Renewable Fuels Association. (Morrison, Matthew) (Entered: 08/30/2018)
08/30/2018		Case Assigned to Judge James E. Boasberg. (zsth) (Entered: 08/30/2018)
08/30/2018	<u>3</u>	SUMMONS (4) Issued Electronically as to UNITED STATES DEPARTMENT OF ENERGY, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice and Consent)(zsth) (Entered: 08/30/2018)
08/30/2018	<u>4</u>	NOTICE of Appearance by Seth Paul Waxman on behalf of GROWTH ENERGY (Waxman, Seth) (Entered: 08/30/2018)
09/04/2018	<u>5</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name- David M. Lehn, :Firm- Wilmer Cutler Pickering Hale and Dorr LLP, :Address- 1875 Pennsylvania Avenue, NW, Washington, DC 20006. Phone No. - 202-663-6910. Fax No. - 202-663-6363 Filing fee \$ 100, receipt number 0090-5670585. Fee Status: Fee Paid. by GROWTH ENERGY (Attachments: # <u>1</u> Declaration of David M. Lehn in Support of Motion, # <u>2</u> Text of Proposed Order)(Waxman, Seth) (Entered: 09/04/2018)
09/04/2018	<u>6</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name- Claire H. Chung, :Firm- Wilmer Cutler Pickering Hale and Dorr LLP, :Address- 1875 Pennsylvania Avenue NW, 20006. Phone No. - 202-663-6641. Fax No. - 202-663-6363 Filing fee \$ 100, receipt number 0090-5670812. Fee Status: Fee Paid. by GROWTH

		ENERGY (Attachments: # <u>1</u> Declaration of Claire H. Chung in Support of Motion, # <u>2</u> Text of Proposed Order)(Waxman, Seth) (Entered: 09/04/2018)
09/04/2018		MINUTE ORDER GRANTING <u>5</u> Motion for Admission <i>Pro Hac Vice</i> of DAVID M. LEHN. So ORDERED by Judge James E. Boasberg on 9/4/2018. (lcjeb3) (Entered: 09/04/2018)
09/04/2018		MINUTE ORDER GRANTING <u>6</u> Motion for Admission <i>Pro Hac Vice</i> of CLAIRE H. CHUNG. So ORDERED by Judge James E. Boasberg on 9/4/2018. (lcjeb3) (Entered: 09/04/2018)
09/06/2018	<u>7</u>	NOTICE of Appearance by Bryan Matthew Stockton on behalf of All Plaintiffs (Stockton, Bryan) (Entered: 09/06/2018)
10/02/2018	<u>8</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 9/19/2018. Answer due for ALL FEDERAL DEFENDANTS by 10/19/2018. (Morrison, Matthew); Modified text on 10/9/2018 (tth). (Entered: 10/02/2018)
10/02/2018	<u>9</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 9/24/2018. (Morrison, Matthew) (Entered: 10/02/2018)
10/02/2018	<u>10</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY served on 9/18/2018 (Morrison, Matthew) (Entered: 10/02/2018)
10/16/2018	<u>11</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. UNITED STATES DEPARTMENT OF ENERGY served on 10/5/2018 (Morrison, Matthew) (Entered: 10/16/2018)
10/17/2018	<u>12</u>	NOTICE of Appearance by Matthew Evan Kahn on behalf of All Defendants (Kahn, Matthew) (Entered: 10/17/2018)
10/17/2018	<u>13</u>	Consent MOTION for Extension of Time to File Answer re <u>1</u> Complaint, by UNITED STATES DEPARTMENT OF ENERGY, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Kahn, Matthew) (Entered: 10/17/2018)
10/18/2018		MINUTE ORDER GRANTING Consent <u>13</u> Motion for Extension of Time to File Answer. The Court ORDERS that Defendants shall file their Answer by November 19, 2018. So ORDERED by Judge James E. Boasberg on 10/18/2018. (lcjeb3) (Entered: 10/18/2018)
10/18/2018		Set/Reset Deadlines: Answer due by 11/19/2018. (znbn) (Entered: 10/18/2018)
11/19/2018	<u>14</u>	ANSWER to Complaint by UNITED STATES DEPARTMENT OF ENERGY, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.(Kahn, Matthew) (Entered: 11/19/2018)
11/20/2018		MINUTE ORDER: The Court ORDERS that the parties shall meet, confer, and submit a joint proposed briefing schedule by December 4, 2019. So ORDERED by Judge James E. Boasberg on 11/20/2018. (lcjeb3) (Entered: 11/20/2018)
11/20/2018		Set/Reset Deadlines: Joint Proposed Briefing Schedule due by 12/4/2018. (znbn) (Entered: 11/21/2018)
12/04/2018	<u>15</u>	PROPOSED BRIEFING SCHEULE by UNITED STATES DEPARTMENT OF ENERGY, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Kahn, Matthew) (Entered: 12/04/2018)
12/06/2018		ENTERED IN ERROR.....Set/Reset Deadlines/Hearings: Responses due by 1/31/2019. Status Conference set for 3/7/2019 at 10:00 AM in Courtroom 25 before Judge James E. Boasberg. (znbn) Modified on 2/22/2019 (znbn). (Entered: 12/07/2018)
12/07/2018		MINUTE ORDER: Per the parties' <u>15</u> Joint Proposed Schedule, the Court ORDERS that the parties submit a further joint status report by January 10, 2019. EPA and DOE should have completed their searches, and the parties will be in a better position to submit a proposed briefing schedule. So ORDERED by Judge James E. Boasberg on 12/7/2018. (lcjeb3) (Entered: 12/07/2018)

12/07/2018		Set/Reset Deadlines: Joint Status Report due by 1/10/2019. (znbn) (Entered: 12/07/2018)
01/02/2019	<u>16</u>	Consent MOTION to Stay by UNITED STATES DEPARTMENT OF ENERGY, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Kahn, Matthew). Added MOTION for Extension of Time to on 1/2/2019 (tth). (Entered: 01/02/2019)
01/02/2019		MINUTE ORDER GRANTING <u>16</u> Motion to Stay. The Court ORDERS that Defendants shall file a status report within seven calendar days after Congress has appropriated funds for the Department of Justice and Defendants. So ORDERED by Judge James E. Boasberg on 1/2/2019. (lcjeb1) (Entered: 01/02/2019)
02/01/2019	<u>17</u>	STATUS REPORT by UNITED STATES DEPARTMENT OF ENERGY, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Kahn, Matthew) (Entered: 02/01/2019)
02/04/2019		MINUTE ORDER: The Court ADOPTS Defendants' <u>17</u> Status Report and ORDERS that they shall submit a status report by February 22, 2019, in which they outline EPA's production schedule and the status of DOE's final production. So ORDERED by Judge James E. Boasberg on 2/4/2019. (lcjeb3) (Entered: 02/04/2019)
02/04/2019		Set/Reset Deadlines: Status Report due by 2/22/2019. (znbn) (Entered: 02/04/2019)
02/21/2019	<u>18</u>	STATUS REPORT by UNITED STATES DEPARTMENT OF ENERGY, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Kahn, Matthew) (Entered: 02/21/2019)
02/22/2019		MINUTE ORDER: The Court ADOPTS Defendants' <u>18</u> Status Report and ORDERS that the parties shall file a joint status report on or before March 29, 2019. So ORDERED by Judge James E. Boasberg on 2/22/2019. (lcjeb3) (Entered: 02/22/2019)
02/22/2019		Set/Reset Deadlines: Joint Status Report due by 3/29/2019. (znbn) (Entered: 02/22/2019)
03/29/2019	<u>19</u>	Joint STATUS REPORT by UNITED STATES DEPARTMENT OF ENERGY, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Attachments: # <u>1</u> Text of Proposed Order)(Kahn, Matthew) (Entered: 03/29/2019)
04/01/2019		MINUTE ORDER: The Court ADOPTS the parties' <u>19</u> Joint Status Report and ORDERS that they shall file another joint status report on or before April 29, 2019. So ORDERED by Judge James E. Boasberg on 4/1/2019. (lcjeb3) (Entered: 04/01/2019)
04/01/2019		Set/Reset Deadlines: Joint Status Report due by 4/29/2019. (znbn) (Entered: 04/01/2019)
04/29/2019	<u>20</u>	Joint STATUS REPORT by GROWTH ENERGY, RENEWABLE FUELS ASSOCIATION. (Morrison, Matthew) (Entered: 04/29/2019)
04/30/2019		MINUTE ORDER: The Court ADOPTS the parties' <u>20</u> Joint Status Report and ORDERS that they shall file another joint status report on or before May 30, 2019. So ORDERED by Judge James E. Boasberg on 4/30/2019. (lcjeb3) (Entered: 04/30/2019)
04/30/2019		Set/Reset Deadlines: Joint Status Report due by 5/30/2019. (znbn) (Entered: 04/30/2019)
05/30/2019	<u>21</u>	Joint STATUS REPORT by UNITED STATES DEPARTMENT OF ENERGY, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Kahn, Matthew) (Entered: 05/30/2019)
05/31/2019		MINUTE ORDER: The Court ADOPTS the parties' <u>21</u> Joint Status Report and ORDERS that they shall file another joint status report on or before July 8, 2019. So ORDERED by Judge James E. Boasberg on 5/31/2019. (lcjeb3) (Entered: 05/31/2019)
05/31/2019		Set/Reset Deadlines: Joint Status Report due by 7/8/2019. (znbn) (Entered: 06/03/2019)
07/08/2019	<u>22</u>	Joint STATUS REPORT by UNITED STATES DEPARTMENT OF ENERGY, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Kahn, Matthew) (Entered: 07/08/2019)

07/09/2019		MINUTE ORDER: The Court ADOPTS the parties' <u>22</u> Joint Status Report and ORDERS that they shall file another joint status report on or before August 9, 2019. So ORDERED by Judge James E. Boasberg on 7/9/2019. (lcjeb3) (Entered: 07/09/2019)
07/09/2019		Set/Reset Deadlines: Joint Status Report due by 8/9/2019. (znbn) (Entered: 07/09/2019)
07/12/2019	<u>23</u>	MOTION for Protective Order by UNITED STATES DEPARTMENT OF ENERGY, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Kahn, Matthew) (Entered: 07/12/2019)
07/26/2019	<u>24</u>	Memorandum in opposition to re <u>23</u> MOTION for Protective Order filed by GROWTH ENERGY, RENEWABLE FUELS ASSOCIATION. (Attachments: # <u>1</u> Exhibit Exhibit A, # <u>2</u> Exhibit Exhibit B, # <u>3</u> Text of Proposed Order Proposed Order)(Morrison, Matthew) (Entered: 07/26/2019)
08/02/2019	<u>25</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>23</u> MOTION for Protective Order by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Kahn, Matthew) (Entered: 08/02/2019)
08/05/2019		MINUTE ORDER GRANTING Consent <u>25</u> Motion for Extension of Time. The Court ORDERS that Defendant shall file its reply to Plaintiffs' Opposition to its Motion for Protective Order by August 9, 2019. So ORDERED by Judge James E. Boasberg on 8/5/2019. (lcjeb1) (Entered: 08/05/2019)
08/05/2019		Set/Reset Deadlines: Replies due by 8/9/2019. (znbn) (Entered: 08/05/2019)
08/09/2019	<u>26</u>	Joint STATUS REPORT by GROWTH ENERGY, RENEWABLE FUELS ASSOCIATION. (Morrison, Matthew) (Entered: 08/09/2019)
08/12/2019		MINUTE ORDER: The Court ADOPTS the parties' <u>26</u> Joint Status Report and ORDERS that they shall file another joint status report on or before September 13, 2019. So ORDERED by Judge James E. Boasberg on 8/12/2019. (lcjeb3) (Entered: 08/12/2019)
08/12/2019		Set/Reset Deadlines: Joint Status Report due by 9/13/2019. (tg) (Entered: 08/12/2019)
08/16/2019	<u>27</u>	REPLY to opposition to motion re <u>23</u> MOTION for Protective Order filed by UNITED STATES DEPARTMENT OF ENERGY, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Kahn, Matthew) (Entered: 08/16/2019)
08/26/2019	<u>28</u>	Consent MOTION for Extension of Time to File <i>Joint Status Report</i> by UNITED STATES DEPARTMENT OF ENERGY, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Kahn, Matthew) (Entered: 08/26/2019)
08/27/2019		MINUTE ORDER: The Court ORDERS that Defendants' <u>28</u> Consent Motion for Extension of Time is GRANTED. The parties shall submit a joint status report by September 20, 2019. So ORDERED by Judge James E. Boasberg on 8/27/2019. (lcjeb3) (Entered: 08/27/2019)
08/27/2019		Set/Reset Deadlines: Joint Status Report due by 9/20/2019. (znbn) (Entered: 08/27/2019)
09/03/2019		MINUTE ORDER: The Court sees no basis to delay briefing on the clawback issue, particularly given that the Government faces an uphill climb where the document is publicly available via a third party. As a result, the Court ORDERS that: 1) Defendant's <u>23</u> Motion for Protective Order is DENIED; 2) Defendant shall respond by September 17, 2019, to Plaintiff's <u>24</u> clawback arguments; 3) Plaintiff may file a reply by September 24, 2019, to such response; and 4) Plaintiff shall not use or disseminate the record until the Court rules. So ORDERED by Judge James E. Boasberg on 9/3/2019. (lcjeb3) (Entered: 09/03/2019)
09/03/2019		Set/Reset Deadlines: Responses due by 9/17/2019. Replies due by 9/24/2019. (znbn) (Entered: 09/04/2019)
09/17/2019	<u>29</u>	MOTION for Extension of Time to File Response/Reply by UNITED STATES DEPARTMENT OF ENERGY, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Kahn, Matthew) (Entered: 09/17/2019)

09/18/2019		MINUTE ORDER GRANTING Defendants' <u>29</u> Motion for Extension of Time. The Court ORDERS that Defendants shall file its response by September 24, 2019. So ORDERED by Judge James E. Boasberg on 09/18/2019. (lcjeb3) (Entered: 09/18/2019)
09/18/2019		Set/Reset Deadlines: Responses due by 9/24/2019. (znbn) (Entered: 09/18/2019)
09/19/2019	<u>30</u>	Joint MOTION for Extension of Time to File <i>Joint Status Report</i> by GROWTH ENERGY, RENEWABLE FUELS ASSOCIATION (Morrison, Matthew) (Entered: 09/19/2019)
09/19/2019		MINUTE ORDER GRANTING the parties' <u>30</u> Motion for Extension of Time. The Court ORDERS that the parties shall file another joint status report by September 27, 2019. So ORDERED by Judge James E. Boasberg on 9/19/2019. (lcjeb3) (Entered: 09/19/2019)
09/19/2019		Set/Reset Deadlines: Joint Status Report due by 9/27/2019. (znbn) (Entered: 09/20/2019)
09/24/2019	<u>31</u>	NOTICE by UNITED STATES DEPARTMENT OF ENERGY, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY re Order on Motion for Protective Order,, (Kahn, Matthew) (Entered: 09/24/2019)
09/27/2019	<u>32</u>	Joint STATUS REPORT by GROWTH ENERGY, RENEWABLE FUELS ASSOCIATION. (Morrison, Matthew) (Entered: 09/27/2019)
09/30/2019		MINUTE ORDER ADOPTING the parties' <u>32</u> Joint Status Report. The Court ORDERS that the parties shall submit a further joint status report by November 1, 2019. So ORDERED by Judge James E. Boasberg on 9/30/2019. (lcjeb3) (Entered: 09/30/2019)
09/30/2019		Set/Reset Deadlines: Joint Status Report due by 11/1/2019. (znbn) (Entered: 09/30/2019)
10/04/2019	<u>33</u>	MOTION for Hearing by GROWTH ENERGY, RENEWABLE FUELS ASSOCIATION (Morrison, Matthew) (Entered: 10/04/2019)
10/07/2019		MINUTE ORDER: The Court ORDERS that: 1) Plaintiff's <u>33</u> Motion is GRANTED; and 2) The parties shall appear for a hearing on October 28, 2019, at 10:30 a.m. So ORDERED by Judge James E. Boasberg on 10/7/2019. (lcjeb3) (Entered: 10/07/2019)
10/07/2019		Set/Reset Hearings: Status Conference set for 10/28/2019 at 10:30 AM before Judge James E. Boasberg. (znbn) (Entered: 10/07/2019)